

EXHIBIT D

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Speaker of the Assembly

President of the Senate

Approved....., 1970

Governor

CALIFORNIA LEGISLATURE—1970 REGULAR SESSION
ASSEMBLY BILL
No. 292

Introduced by Assemblyman Hayes

January 21, 1970

RETURNED TO COMMITTEE ON JUDICIARY

An act to add Title 1.5 (commencing with Section 1750) to Part 4 of Division 3 of the Civil Code, relating to the Consumers Legal Remedies Act.

The people of the State of California do enact as follows:

1 SECTION 1. Title 1.5 (commencing with Section 1750) is
2 added to Part 4 of Division 3 of the Civil Code, to read:

3 TITLE 1.5. CONSUMERS LEGAL REMEDIES ACT

4 CHAPTER 1. GENERAL PROVISIONS

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8 1750. This title may be cited as the Consumers Legal Remedies Act.

9 1751. Any waiver by a consumer of the provisions of this
10 title is contrary to public policy and shall be unenforceable
11 and void.

12 1752. The provisions of this title are not exclusive, and
13 the remedies provided for in this title shall be in addition to
14 any other remedies provided for in any other law.

15 1753. If any provision of this title or the application thereof
16 to any person or circumstance is held to be unconstitutional,
17 the remainder of the title and the application of such provision
18 to other persons or circumstances shall not be affected thereby.
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LEGISLATIVE COUNSEL'S DRAFT

AB 292, as introduced, Hayes (Jud.). Consumers Legal Remedies Act.

Adds Title 1.5 (commencing with Sec. 1750), Pt. 4, Div. 3, Civ. Code, enacts Consumers Legal Remedies Act which provides specific legal remedies for consumers who suffer damage as a result of method, act, or practice declared to be unlawful by the act.
Vote—Majority; Appropriation—No; Fiscal Committee—No.



CHAPTER 2. CONSERVATION AND DEFINITIONS

1760. This title shall be liberally construed and applied to promote its underlying purposes, which are to protect consumers against unfair and deceptive business practices and to provide efficient and economical procedures to secure such protection.

1761. As used in this title:

- (a) "Goods" means tangible chattels bought for use primarily for personal, family, or household purposes, including certificates or coupons exchangeable for such goods, and including goods which, at the time of the sale or subsequently, are to be so affixed to real property so as to become a part of such real property, whether or not severable therefrom.
- (b) "Services" means work, labor, and services for other than a commercial or business use, including services furnished in connection with the sale or repair of goods as defined in subdivision (a) of this section.
- (c) "Person" means an individual, partnership, corporation, association, or other group, however organized.
- (d) "Individual" does not include a partnership, corporation, association, or other group, however organized.
- (e) "Consumer" means an individual who seeks or receives credit for personal, family, or household purposes.
- (f) "Transaction" means an agreement between a consumer and any other person, whether or not the agreement is a contract enforceable by action, and includes the making of, and the performance pursuant to, that agreement.

CHAPTER 3. DECEPTIVE PRACTICES

1770. The following unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in the conduct of any trade or commerce are unlawful:

- (a) Passing off goods or services as those of another.
- (b) Causing likelihood of confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services.
- (c) Causing likelihood of confusion or misunderstanding as to affiliation, connection, or association with, or certification by, another.
- (d) Using deceptive representations or designations of geographic origin in connection with goods or services.
- (e) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or qualities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he does not have.
- (f) Representing that goods are original or new if they have deteriorated unreasonably or are altered, reconditioned, refinished, used, or secondhand.

(g) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another.

(h) Disparaging the goods, services, or business of another by false or misleading representation of fact.

(i) Advertising goods or services with intent not to sell them as advertised.

(j) Advertising goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity.

(k) Making false or misleading statements of fact concerning reasons for, existence of, or amounts of price reductions.

(l) Representing that a transaction confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law.

(m) Representing that a part, replacement, or repair service is needed when it is not.

(n) Representing that the subject of a transaction has been supplied in accordance with a previous representation when it has not.

(o) Representing that the consumer will receive a rebate, discount, or other economic benefit as an inducement for entering into a transaction, if the granting of the benefit is contingent on an event to occur subsequent to the consummation of the transaction.

(p) Causing likelihood of confusion or misunderstanding with respect to the authority of a salesman, representative, or agent to negotiate the final terms of a transaction with a consumer.

(q) Engaging in any other conduct which similarly creates a likelihood of confusion or misunderstanding.

(r) Engaging in any act or practice which is unfair or deceptive to the consumer.

1771. In addition to any act or practice which is declared to be unlawful under Section 1770, an act or practice is unlawful if it is either of the following:

- (a) Repressive or otherwise unconscionable in any respect.
- (b) Fails to comply with the Truth in Lending Act (Chapter 1 (conforming with Section 1601) of Title 2 of Part 4 of Division 3 of this code), Rose-Reserving Motor Vehicle Sales and Finance Act (Chapter 2b (conforming with Section 266) of Title 14 of Division 3 of this code), Federal Trade Commission Act (38 Stat. 717, as amended), Consumer Credit Protection Act (82 Stat. 146), or any other consumer protection statute of this state or the federal government.

CHAPTER 4. REMEDIES

1780. (a) Any consumer who obtains credit, or purchases or leases, or agrees to purchase or lease, goods or services primarily for personal, family, or household purposes, and who thereby suffers any damage as a result of the use or employ-